Case3:14-cv-04645-EMC Document8 Filed10/23/14 Page1 of 3 Case 3:14-cv-04019-K Document 9 Filed 10/27/14 Page 1 of 5 PageID 88 1 ALEXANDER G. CALFO (SBN 152891) alexander.calfo@btlaw.com 2 KELLEY S. OLAH, (SBN 245180) kelley.olah@btlaw.com 3 GABRIELLE J. ANDERSON-THOMPSON (SBN 247039) gabrielle.anderson-thompson@btlaw.com 4 BARNES & THORNBURG LLP 2029 Century Park East, Suite 300 Los Angeles, California 90067 5 Telephone: (310) 284-3880 Facsimile: (310) 284-3894 6 7 Attorneys for Defendants JOHNSON & JOHNSON SERVICES, INC.; JOHNSON & 8 JOHNSON (erroneously sued as "Johnson & Johnson, Inc."); DEPUY ORTHOPAEDICS, INC.; PINNACLE WEST ORTHOPAEDICS, INC.; and GOLDEN STATE ORTHOPAEDICS, INC. 10 UNITED STATES DISTRICT COURT 11 NORTHERN DISTRICT OF CALIFORNIA 12 WILLIAM FRANCIS CONDON III, 13 Case No. CV14-04645-EMC Plaintiff, 14 STIPULATION TO STAY ALL **PROCEEDINGS** 15 VS. [Filed concurrently with [Proposed] Order] JOHNSON & JOHNSON SERVICES, 16 INC.; JOHNSON & JOHNSON, INC.: Complaint Filed: August 27, 2014 DEPUY ORTHOPAEDICS, INC.; 17 THOMAS SCHMALZRIED, M.D.; PINNACLE WEST ORTHOPAEDICS, 18 INC.; GOLDEN STATE ORTHOPAEDICS, INC.; AND DOES 19 ONE through ONE HUNDRED, 20 Defendants. 21 22 23 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD: 24 /// 25 /// 26 111 27 /// 28 CV14-04645-EMC BARNES & 1 HORNBURG LLP ATTORNEYS AT LAW STIPULATION TO STAY ALL PROCEEDINGS LEW AMPERES

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The parties to this action¹, by and through the undersigned counsel, stipulate to stay all proceedings in this case pending a decision by the Judicial Panel on Multidistrict Litigation ("Panel") on the transfer of this case to *In re DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation*, MDL Docket No. 2244, which is currently pending before Judge Ed Kinkeade in the United States District Court for the Northern District of Texas. A stay of this action will preserve the resources of the Court and all the parties involved. All parties agree that a stay of proceedings is necessary and appropriate to achieve the judicial economies that underlie 28 U.S.C. § 1407 and that the burden of duplicative litigation weighs heavily in favor of staying proceedings pending MDL transfer.

The parties further stipulate that deadlines to any outstanding responsive pleading are extended pending entry of a Scheduling Order in the MDL court addressing responsive pleadings and the deadline to file any remand motion is extended pursuant to the MDL court's August 14, 2012 "Order Regarding Cases Removed from State Court," and any subsequent orders that the MDL Court may issue.

For the foregoing reasons, the parties respectfully request that the Court grant their stipulation to stay all proceedings in this action pending its likely transfer to MDL 2244.

Respectfully submitted,

18 Dated: October 23, 2014

WALKUP MELODIA KELLY & SCHOENBERGER

By <u>/s/ Spencer Pahlke</u> Khaldoun A. Baghdadi Spencer Pahlke

Attorney for Plaintiff WILLIAM FRANCIS

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Although Johnson & Johnson Services, Inc., Johnson & Johnson (erroneously sued as "Johnson & Johnson, Inc."), Thomas Schmalzried, M.D., Pinnacle West Orthopaedics, Inc. and Golden State Orthopaedics, Inc. join in the filing of this stipulation, Johnson & Johnson Services, Inc., Johnson & Johnson, Thomas Schmalzried, M.D., Pinnacle West Orthopaedics, Inc. and Golden State Orthopaedics, Inc. expressly preserve all of their defenses, including lack of personal jurisdiction. Johnson & Johnson Services, Inc., Johnson & Johnson, Thomas

Schmalzried, M.D., Pinnacle West Orthopaedics, Inc. and Golden State Orthopaedics, Inc. recognize that the MDL court will be best suited to oversee all overlapping issues in the Pinnacle

Cup System cases.

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2	Dotado Ostabou 22, 2014	DADNEC & THODNOL	DC I I D	
3	Dated: October 23, 2014	BARNES & THORNBU	KG LLP	
4		By /s/ Alexander G. Calfo Alexander G. Calfo		
5		Kelley S. Olah Gabrielle Anderson-Thom	ngon	
6		Attorneys for Defendants JOHNSON & JOHNSON		
7		JOHNSON & JOHNSON "Johnson & Johnson, Inc."	(erroneously sued as	
8		ORTHOPAEDICS, INC.; ORTHOPAEDICS, INC.; ORTHOPAEDICS, INC.	PINNACLE WEST	
10	Dated: October 23, 2014	SEDGWICK LLP	·	
11	ŕ			
12		By <u>/s/ Christopher P. Nort</u> Ralph A. Campillo	on	
13		Wendy A. Tucker Christopher P. Norton		
14		Attorneys for Defendant THOMAS SCHMALZRIE	ED, M.D.	
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6	Attorneys for Defendants			
7	JOHNSON & JOHNSON SERVICES, INC.; JOHNSON & JOHNSON (erroneously sued as "Johnson & Johnson, Inc."); DEPUY			
8	ORTHOPAEDICS, INC.; PINNACLE WEST ORTHOPAEDICS, INC.; and GOLDEN STATE ORTHOPAEDICS, INC.			
10	UNITED STATES DISTRICT COURT			
11	NORTHERN DISTRICT OF CALIFORNIA			
12				
13	WILLIAM FRANCIS CONDON III,	Case No. CV14-04645-EMC		
14	Plaintiff,	[PROPOSED] ORDER RE STIPULATION TO STAY ALL PROCEEDINGS		
15	VS,			
16	JOHNSON & JOHNSON SERVICES,	Complaint Filed: August 27, 2014		
17	INC.; JOHNSON & JOHNSON, INC.; DEPUY ORTHOPAEDICS, INC.; THOMAS SCHMALZRIED, M.D.; PINNACLE WEST ORTHOPAEDICS, INC.; GOLDEN STATE			
18				
19	ORTHOPAEDICS, INC.; AND DOES			
20	ONE through ONE HUNDRED,			
21	Defendants.			
22				
23				
24	TO ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:			
25	Upon consideration of the Stipulation to Stay Proceedings submitted by Plaintiff			
26	WILLIAM FRANCIS CONDON III, and Defendants JOHNSON & JOHNSON SERVICES, INC., JOHNSON & JOHNSON (erroneously sued as "Johnson & Johnson, Inc."), DEPUY			
27	ORTHOPAEDICS, INC., PINNACLE WEST ORTHOPAEDICS, INC., GOLDEN STATE			
28	ORTHOPAEDICS, INC., and THOMAS P. SCHMALZRIED, M.D. (hereafter collectively "the			
BARNES & THORNBURG LLP	CV14-04645-E			
ATTORNEYS AT LAW	[PROPOSED] ORDER RE STIPULATION TO STAY ALL PROCEEDINGS			

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Parties"); upon consideration of all documents, files, and pleadings in this action; and upon good cause shown, it is hereby ORDERED that:

- 1. The Parties' request for a stay of proceedings is GRANTED;
- 2. All proceedings in this action are hereby stayed, pending a decision by the Judicial Panel on Multidistrict Litigation on whether this case should be transferred to In re DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation, MDL Docket No. 2244.
- 3. Deadlines relating to any outstanding responsive pleading are extended pending entry of a Scheduling Order in the MDL court addressing responsive pleadings and the deadline to file any remand motion is extended pursuant to the MDL court's August 14, 2012 "Order Regarding Cases Removed from State Court," and any subsequent orders that the MDL Court may issue.

PURSUANT TO STIPULATION, IT IS SO ORDERED

Dated: _____, 2014



BARNES &
THORNBURG LLP
ATTORNEYS AT LAW
LOS ANGELES